

OTIS JORDAN, )  
)  
Plaintiff, )  
)  
vs. ) CIVIL NO. 08-cv-375-GPM  
)  
WARDEN HULICK, *et al.*, )  
)  
Defendants. )

## Page 1 of 3

(a) **Screening.**— The court shall review, before docketing, if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.

(b) **Grounds for Dismissal.**— On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint—

(1) is frivolous, malicious, or fails to state a claim on which relief may be granted; or

(2) seeks monetary relief from a defendant who is immune from such relief.

28 U.S.C. § 1915A. An action or claim is frivolous if “it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Upon careful review of the complaint and any supporting exhibits, the Court finds it appropriate to exercise its authority under § 1915A; this action is subject to summary dismissal.

Count 1 consists of claims against Defendant Officer Maui, Defendant Major Maui, and Defendant Lt. Liefer. Jordan specifically alleges that, while he was in the Menard Correctional Center, Officer Maui took a disliking to him; this dislike was manifested in verbal harassment and threats. Jordan filed a grievance over the matter, without relief. He then sought assistance from Defendants Liefer and Major Maui, but neither took sufficient action to correct the situation. Jordan then went to Internal Affairs seeking transfer to another institution; instead, he received a transfer to another housing unit at Menard, where his contact with Officer Maui was minimized. Based on this scenario, Jordan alleges that all three have joined in a conspiracy of harassment against him, in violation of his constitutional rights.

A claim of conspiracy, standing alone, does not create liability under 42 U.S.C. § 1983. *See Smith v. Gomez*, 550 F.3d 613, 617 (7<sup>th</sup> Cir. 2008) (conspiracy is not an independent basis of liability in § 1983 actions). Moreover, incidents of verbal harassment do not give rise to a constitutional claim. *See, e.g., DeWalt v. Carter*, 224 F.3d 607, 612 (7<sup>th</sup> Cir. 2000); *Gutierrez v. Peters*, 111 F.3d

1364, 1375 (7<sup>th</sup> Cir. 1997); *Kincaid v. Vail*, 969 F.2d 594, 602 (7<sup>th</sup> Cir. 1992). *See also Antoine v. Uchtman*, 275 Fed.Appx. 539, 541 (7<sup>th</sup> Cir. 2008) (“[T]he Constitution does not compel guards to address prisoners in a civil tone using polite language.”). Thus, Jordan has failed to state a claim upon which relief may be granted.

The complaint does not survive review under § 1915A. Accordingly, this action is **DISMISSED** with prejudice, and all pending motions are now **MOOT**. Jordan is advised that the dismissal of this action will count as one of his three allotted “strikes” under the provisions of 28 U.S.C. § 1915(g).

**IT IS SO ORDERED.**

DATED: 05/27/09

s/ *G. Patrick Murphy*  
G. Patrick Murphy  
United States District Judge